

REMARKS

The Restriction Requirement

In the Office Action, the Examiner imposed a four-way restriction in the present application under 35 U.S.C. §121:

Group I: Claims 1-4, drawn to a tiotropium powder composition, classified in class 424, subclass 489+;

Group II: Claim 5, drawn to a method of preparing a pharmaceutical dosage for treating respiratory disease, classified in class 427, subclass 1+;

Group III: Claims 6-9, drawn to a capsule formulation, classified in class 424, subclass 451+; and

Group IV: Claims 10-11, drawn to an inhalation kit, classified in class 128, subclass 1+.

In response to the restriction requirement, applicants hereby elect the subject matter of Group I, claims 1-4, drawn to a tiotropium powder composition. The election is made without traverse.

The Election of Species Requirement

Pursuant to the Election of Species requirement in the Office Action, applicants hereby elect the species of a composition comprising tiotropium bromide as the salt form of tiotropium and lactose as the excipient. It is believed that, of the claims elected pursuant to the restriction requirement, claims 1-4 encompass the elected species. The Examiner is encouraged to examine the broadest possible scope of invention indicated by the elected species. In accordance with M.P.E.P. §803.02, should no prior art be found which renders the invention of the elected species unpatentable, the search of the remainder of the generic claim(s) should be continued in the same application. It is improper for the PTO to refuse to examine in one application the entire scope of the claims therein unless they lack unity of invention. The generic claims herein have not been alleged to lack unity of invention.

Applicants make the above-identified elections expressly without waiver of their right to file for and obtain claims directed to the non-elected subject matter in one or more divisional applications claiming priority and benefit herefrom, or from a related application, under 35 U.S.C. § 120.

Applicants also respectfully submit that all the pending claims are allowable and therefore solicit a Notice of Allowance for all of the pending claims. If the Examiner feels that a telephone interview would be helpful in advancing prosecution of this application, the Examiner is invited to contact the attorney below.

Respectfully submitted,

/wendy petka/

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